

From: mike@UDel.Edu@inetgw
To: Microsoft ATR
Date: 1/23/02 3:25pm
Subject: Microsoft Settlement

Dear Sir or Madam,

I would like to comment on the proposed settlement of the United States vs. Microsoft antitrust lawsuit.

The first point that we must not lose sight of is that the Microsoft Corporation willingly committed a series of very serious crimes that cost the citizens of the United States a great deal of money and affected untold numbers of lives. A crime was committed; punishment must be meted out such that the behavior of the entity is modified so the offense is not repeated. The current settlement does not do so. The settlement was largely written by Microsoft and is geared towards minimizing the financial losses of Microsoft, while maximizing future profits. Hardly a punishment designed to modify behavior.

Microsoft has never admitted that it engaged in criminal behavior. Given that the proposed settlement does not make it unprofitable to engage in illegal behavior in the future, it is reasonable to assume Microsoft will continue to engage in criminal behavior in the future. The proposed settlement seems to place numerous restrictions on Microsoft's business practices, but the restrictions really just force Microsoft to act in a legal fashion. In short, where is the pain? We send a person to jail when he or she commits a crime in hopes that they person will learn to modify their behavior and not commit crimes in the future. We do not tell the person "do not rob banks" and let them go. How does the proposed judgment ensure that Microsoft's behavior - its corporate culture - is going to be modified? The settlement does not even provide for monitoring the weak restrictions it seeks to implement.

The only reasonable solution to the Microsoft problem is to break the company into separate pieces. By breaking Microsoft into pieces, the individual companies will be forced to compete with other companies. The settlement implementing the breakup will not have to delve into arcane details such as "what is an API" and "what is middleware". Market forces alone will dictate what the Microsoft companies will have to document and disclose in order to remain competitive in an open market. Good punishment is simple, straight forward and directly addresses the crime. Microsoft manipulated the market, let the market decide the punishment.

Remember - everyone thought the telephone system was going to

collapse when the breakup was ordered back in the 80s. And, for a few years, the benefits were few and far between. Now days, I am not sure how cheap I can make a long distance call; the price is dropping faster than I can keep up with. A breakup of Microsoft will cause pain in the technology sector in the short term. In the long term, it will bring great benefits in the same way that diversity in any system brings great benefits.

Sincerely,

Michael Porter
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